IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.709 OF 2005.

Dharma Shrawan Kallthe : Appellant.

versus

Bachu Pitha Solanki : Respondent.

Mr.D.D.Belosey for the appellant.

Mr.B.G.Vaidya for the respondent.

CORAM : D.G.DESHPANDE,J.

DATED : 6th July 2005.

ORAL ORDER

1. Heard advocates for the appellant and respondent. The appellant initially filed a suit under Section 6 of the Specific Relief Act in respect of a particular structure. The number of structure is immaterial for the purpose of this appeal. He succeeded in that suit and got the possession of that particular property from the

court receiver. Thereafter the respondent/owner filed a Regular Suit on the basis of title. The respondent's suit was decreed and he has become entitled to get back the possession of the premises which were handed over and delivered to the appellant in execution of the earlier decree. When the respondent/owner has succeeded on the basis of title, now the appellant cannot be permitted to agitate or contend that the structures are different and their numbers are different. The appellant knows for which the specific particular suit was filed on title. He also knows the effect of the decree and, therefore, he got the possession of the particular property from the court receiver on the basis of earlier decree under section 6 of the Specific Relief Act. He has to deliver back the possession. The trial Court has rightly considered this aspect and rejected the claim and contention of the appellant. There is no merit in this appeal. Same is dismissed. Prayer for extension of time to file another suit and continuation of stay is rejected.

[D.G.DESHPANDE]